



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02-60; FCC 17-71]

Rural Health Care Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends the Rural Health Care (RHC) Program rule which defines “health care provider” to implement the provision of the Rural Healthcare Connectivity Act of 2016 amending the Communications Act of 1934 (the Act) to include skilled nursing facilities (SNFs) amongst the list of health care providers eligible to receive support.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Memorandum Opinion and Order (MO&O) in WC Docket No. 02-60; FCC 17-71, adopted on June 7, 2017, and released on June 8, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554, or at the following Internet address: https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-71A1.pdf.

I. DISCUSSION

1. In this MO&O, we implement the Rural Healthcare Connectivity Act of 2016, which amends section 254(h)(7)(B) of the Act, to include SNFs amongst the list of health care providers eligible to receive RHC Program support. Specifically, we amend § 54.600(a) of the Commission’s rules defining

“health care provider” under the RHC Program to include SNFs as eligible health care providers.

2. In the 1996 Act, Congress limited the types of health care providers eligible to receive support. SNFs were not included as an eligible entity type. Following the 1996 Act, the Commission established the RHC Program implementing the provisions of the 1996 Act and adopting rules for the program, including § 54.600(a) of the Commission’s rules, which defines “health care provider[s]” supported under our RHC support programs in a manner that mirrored the terms of section 254(h)(7)(B) of the Act. This definition did not include SNFs.

3. On June 22, 2016, the President signed legislation that included SNFs amongst the list of health care providers eligible to receive RHC Program support. We interpret this law as directing the Commission to include SNFs in all programs for which health care providers are otherwise eligible and therefore amend § 54.600(a) of the Commission’s rules defining “health care provider” under the RHC Program to mirror the current statutory definition in 47 U.S.C. 254(h)(7)(B). We find that a notice and comment rule making proceeding in this matter is unnecessary because the rule modification flows from the direction provided in the Rural Healthcare Connectivity Act of 2016 to include SNFs within the existing RHC Program. Section 1.412(c) of the Commission’s rules provides that rule changes may be adopted without prior notice where the Commission for good cause finds that notice and comment procedures are unnecessary, so long as the basis for the good cause finding is published with the rule changes. The final rule adopted in this MO&O does not involve discretionary action on our part, but rather simply effectuates the Act according to the specific terms set forth in the legislation, which became effective on December 19, 2016. Accordingly, we conclude that this change constitutes a ministerial, noncontroversial amendment to our rules and thus this action falls within the “good cause” exception of the Administrative Procedure Act. We therefore forgo notice and comment in this limited context.

4. We also find good cause to make this rule change effective upon publication in the Federal Register. Specifically, making this rule change effective upon publication in the Federal Register enables SNFs to benefit expeditiously, consistent with Congress’s goal of including SNFs as an eligible

health care provider type under the RHC Program. No additional time is needed for affected parties to prepare for the rule's effectiveness because Commission staff, USAC, and interested parties have already had a chance to do so; the associated RHC Program application forms incorporating SNFs into the RHC Program have already been prepared, put out for notice and comment, and approved. Additionally, while the rule change enables SNFs to benefit from the RHC Program, it does not immediately oblige them to take any particular action unless they choose to do so. Thus, we find good cause to make this rule change effective upon publication in the Federal Register.

II. PROCEDURAL MATTERS

A. Paperwork Reduction Act Analysis

2. Because approval has already been obtained for the addition of SNFs to the category of eligible health care providers pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, this document does not contain any new or modified information collection requirements subject to PRA. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

B. Final Regulatory Flexibility Act Certification

3. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.” The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Because the implementation of this provision entails no exercise of our administrative discretion, notice and comment procedures are

unnecessary and, therefore, the Final RFA does not apply.

C. Congressional Review Act

4. The Commission will send a copy of this MO&O to Congress and the Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

III. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i)–(j), 201(b), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201(b), 254, and the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Title II – Rural Healthcare Connectivity, Pub. L. No. 114-182, sec. 202, this MO&O IS ADOPTED.

6. IT IS FURTHER ORDERED that Part 54 of the Commission’s rules, 47 CFR Part 54, is AMENDED, and such rule SHALL BECOME EFFECTIVE **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, pursuant to 5 U.S.C. 553(d)(3) and § 54.600(a) of the Commission’s rules, 47 CFR 54.600(a).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,
Secretary.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.600 by revising paragraph (a)(6), redesignating paragraph (a)(7) as (a)(8), adding new paragraph (a)(7), and revising newly redesignated paragraph (a)(8) to read as follows:

§ 54.600 Terms and definitions.

* * * * *

(a) * * *

(6) Rural health clinic;

(7) Skilled nursing facility; or

(8) Consortium of health care providers consisting of one or more entities described in paragraphs

(a)(1) through (7) of this section.

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